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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/973,356
Filing Date: October 09, 2001
Appellant(s): RAMSEY-CATAN, CAROLYN CHRISTINE

MAILED

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GROUP 3600

William A. Munck
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 28, 2006 appealing from the
Office action mailed February 3, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 20020143647 A1

Headings et al.

10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Headings et al. (US 2002/0143647 A1) hereinafter referred to as Headings.

Referring to claims 1 and 8, Headings teaches a system for monitoring and controlling remote purchases comprising: a home access device selectively coupled to at least one communication system (Figure 1, items "16" and "17"; paragraph [0014]); a remote purchase controller controlling remote purchases over the at least one communications network involving the home access device (Figure 1, items "12" and

"14"; paragraph [0014]), the remote purchase controller: responsive to detecting an attempt to execute a remote purchase transaction, determining whether the remote purchase transaction should be completed based upon a remote purchase limit (paragraphs [0019], [0022], and [0023]). Headings does not explicitly teach holding the transaction for processing after determining that the transaction should not be completed. However, Headings teaches that the HoH can establish permissions such as spending limits for sub-accounts (paragraphs [0004], [0019], [0022]). Furthermore, Headings teaches suspending a transaction if a debit cannot be posted to a second account (claim 6). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to suspend a transaction for subsequent processing in the event a permission was violated in the invention of Headings. One of ordinary skill in the art would have been motivated to do so in order to enforce the permissions set by the HoH.

Referring to claims 2 and 9, Headings teaches determines whether the remote purchase transaction involves an amount exceeding a remaining available balance of the remote purchase limit for a current period ([0019], [0022], and [0023]).

Referring to claims 3 and 10, Headings teaches identifying which of a plurality of authorized users associated with an account to be employed in the remote purchase transaction is attempting to execute the remote purchase transaction and ascertains the remaining available balance of the remote purchase limit for the identified user for the current period (paragraphs [0013], [0019], [0022], and [0023]). Headings teaches supporting multiple users with permissions such as monthly spending limits and

Art Unit: 3625

accessing a users account during a transaction to determine if a permission will be violated by the transaction.

(10) Response to Argument

Headings et al. ("Headings") discloses a system for conducting Internet transactions via a home access device (Figure 1, "16" and "17") in communication with a remote purchase controller (Figure 1, "12", and "14"). Headings further discloses that a subscriber, such as a head-of-household (HoH), can create sub-accounts having permissions (e.g. spending limits) for family members (See paragraphs [0004], [0015], [0019]; and [0022], lines 1-7). When the system detects a transaction, it determines whether the transaction should be completed based upon the permissions (e.g. spending limits) (paragraph [0023], lines 1-7). If a transaction cannot be completed because the system was unable to post the cost of the transaction to an account then the system will "suspend" the transaction (claim 6).

Referring to claims 1 and 8, the Appellant has argued that Headings does not teach or suggest the limitation of holding a transaction "for processing during a subsequent period" as recited in the claims (e.g. See claim 1, line 9 of Brief). The examiner respectfully disagrees. The examiner rejected claims 1 and 8 under 35 USC 103(a) as being unpatentable over Headings. In making this rejection, the examiner took the position that Headings does not recite explicitly the term "holding". However, the examiner argued that the reference's teaching of "suspending" a transaction was an obvious variant of "holding" a transaction (See Final rejection page 3, lines 5-14). The

Art Unit: 3625

Appellant's arguments are not directed to the difference between "holding" a transaction and "suspending" a transaction. Instead, the Appellant's primary argument is that Headings does not teach or suggest the limitation "for processing during a subsequent period" (See Brief page 11, lines 15-18; page 12, lines 18-21; page 13, lines 35 and 36; page 14, lines 12-15). The examiner respectfully disagrees with this argument. Merriam-Webster's Collegiate Dictionary, tenth edition, defines the term "suspend" as follows: "*to set aside or make temporarily inoperative; to defer to a later time on specified conditions.*" Therefore, the limitation of "...processing during a subsequent period" is inherent in the definition of the word "suspend" because the term "suspend", as used by Headings, teaches or suggests to one of ordinary skill in the art that further processing takes place at a later time.

The Appellant has also argued that Headings does not teach resetting or refreshing period-based limits. For example, the Brief states:

"Nothing in *Headings et al* suggests that suspending a transaction... could include the alternative of holding the transaction until a subsequent period, to be processed after a period-based limit is reset at the start of the subsequent period." (See Brief page 12, lines 1-4)

"Nothing in *Headings et al* suggests that the transaction exceeding a period based limit may be held for processing during a subsequent period, when the period-based limit refreshes." (See Brief page 12, lines 22 and 23)

The examiner disagrees and would like to point out that the claimed invention, as recited in claim 1 and 8, does not recite processing "...after a period-based limit is reset at the start of the subsequent period" or refreshing a period-based limit as argued by the Appellant. The Appellant appears to be incorporating limitations from the specification

Art Unit: 3625

into the claim language. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Appellant has also argued that "subsequent processing" is not the same as "processing during a subsequent period" because the claims contemplate "period-based" (e.g. monthly) spending limits whereas Headings teaches processing "during the same period" (See Brief page 15, lines 1-10). The examiner respectfully disagrees. Headings does not teach or suggest that the processing is performed "during the same period" as alleged by the Appellant. This allegation is not supported by the disclosure of Headings. Headings states only that the transaction is suspended. Furthermore, claims 1 and 8 of the instant application do not support the Appellant's argument that the spending limit is a period-based (e.g. monthly, bi-annually, bi-weekly, etc.) spending limit. Claims 1 and 8 recite only a "purchase limit". There is no teaching or suggestion in the Appellant's claim language that the spending limit is a "period-based" spending limit. Regarding the limitation "subsequent period" at the end of claims 1 and 8, the examiner took the broadest reasonable interpretation and concluded that these words meant "some point later in time." The examiner then applied Headings teaching of suspending a transaction and notes that the word "suspend" inherently refers to "some point later in time."

The Appellant also appears to argue that the term "suspend", as used by Headings, requires a manual override (See Brief, page 12, lines 1 and 2; page 12, lines 18-21; page 15, lines 3-5) whereas the Appellant's invention does not require a manual

Art Unit: 3625

override. The examiner respectfully disagrees. Nothing in the Headings reference teaches or suggests to one of ordinary skill in the art that the term "suspending" requires a manual override. The Appellant's argument is not supported by the disclosure of Headings. Even if it is assumed that the Appellant is correct in arguing that Headings requires a manual override, independent claims 1 and 8 are sufficiently broad enough to encompass a manual override. Claims 1 and 8 recite that the remote controller only holds the transaction for further processing during a subsequent period, but the claims do not recite that the remote controller actually performs the processing during the subsequent period. Thus, as currently claimed by the Appellant, the processing could be preformed manually during the subsequent period (i.e. manually overriding a spending limit).

Finally, the examiner would like to point out that claims 1 and 8 of the instant application are directed to a "system" and "apparatus" respectively. The limitation "for processing during a subsequent period" is not commensurate with the claimed system and apparatus because this limitation refers to a result that happens some point later time (whether period-based or not) as opposed to a particular structural element of the claimed system and apparatus. The limitation "for processing during a subsequent period" is a type of functional language that appears in the claims. "Functional" indicates nothing more than the fact that an attempt is being made to define something by what it does rather than by what it is. See *In re Swinehart*, 169 USPQ 226 (CCPA 1971). A clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim. See *Texas Instruments Inc. v.*

International Trade Commission, 26 USPQ2d 1018 (CAFC 1993). In the present case, the limitation “for processing during a subsequent period” merely states the result, which occurs some point in the future, of the limitations in the claim and adds nothing to the patentability or substance of the claimed system and apparatus. For these reasons, the examiner respectfully requests the Board to affirm the examiner’s rejection under 35 U.S.C. § 103(a).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejection(s) should be sustained.


Respectfully submitted,



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Conferees:



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